

## CCRB INVESTIGATIVE RECOMMENDATION

|   |                                     |                           |  |                                    |                                 |
|---|-------------------------------------|---------------------------|--|------------------------------------|---------------------------------|
| Investigator:<br>Olga Bentin                      | Team:<br>Squad #4                   | CCRB Case #:<br>201807479 | <input checked="" type="checkbox"/> Force              | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.   |
|   |                                     |                           | <input checked="" type="checkbox"/> Abuse              | <input type="checkbox"/> O.L.      | <input type="checkbox"/> Injury |
| Incident Date(s)<br>Wednesday, 08/22/2018 2:30 PM | Location of Incident:<br>§ 87(2)(b) | Precinct:<br>105          | 18 Mo. SOL<br>2/22/2020                                | EO SOL<br>2/22/2020                |                                 |
| Date/Time CV Reported<br>Wed, 08/29/2018 3:10 AM  | CV Reported At:<br>IAB              | How CV Reported:<br>Phone | Date/Time Received at CCRB<br>Tue, 09/11/2018 11:08 AM |                                    |                                 |

| Complainant/Victim | Type       | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b)         | § 87(2)(b) | § 87(2)(b)   |

| Subject Officer(s)       | Shield | TaxID  | Command |
|--------------------------|--------|--------|---------|
| 1. POM Nicholas Reulbach | 10428  | 940624 | 105 PCT |

| Witness Officer(s)             | Shield No | Tax No | Cmd Name |
|--------------------------------|-----------|--------|----------|
| 1. POM Gilberto Salazargiraldo | 12148     | 962768 | 105 PCT  |
| 2. POM William Crowe           | 31624     | 965016 | 105 PCT  |
| 3. POM Angel Rivera            | 01904     | 961170 | 105 PCT  |
| 4. POF Danielle Renna          | 14702     | 962670 | 105 PCT  |
| 5. POF Heather Busch           | 27077     | 948311 | 105 PCT  |
| 6. POM Dustin Defilippo        | 08129     | 964478 | 105 PCT  |
| 7. POM Daniel Menezes          | 21748     | 960096 | 105 PCT  |
| 8. POM Krunal Pandhi           | 30175     | 954208 | MED DIV  |
| 9. POM Matthew Knudsen         | 21251     | 964097 | 105 PCT  |
| 10. POM Victor Pross           | 07505     | 961126 | 105 PCT  |
| 11. SGT Vlad Kogan             | 01999     | 938783 | 105 PCT  |

| Officer(s)              | Allegation   | Investigator Recommendation |
|-------------------------|--|-----------------------------|
| A.POM Nicholas Reulbach | Force: Police Officer Nicholas Reulbach pointed his gun at § 87(2)(b)                | § 87(2)(b)                  |
| B.POM Nicholas Reulbach | Abuse: Police Officer Nicholas Reulbach threatened § 87(2)(b) with the use of force. | § 87(2)(b)                  |
| C.POM Nicholas Reulbach | Abuse: Police Officer Nicholas Reulbach searched § 87(2)(b)                          | § 87(2)(b)                  |
| § 87(4-b) § 87(2)(g)    | § 87(2)(b)   | § 87(2)(b)                  |

### Case Summary

On August 29, 2018, § 87(2)(b) contacted the IAB Command Center and filed this complaint. On September 11, 2018, the complaint was received at the CCRB.

On August 22, 2018, at 2:30 p.m., PO Nicholas Reulbach and additional officers of the 105<sup>th</sup> Precinct responded to a call regarding an ambulance case (emotionally disturbed person) at § 87(2)(b) in Queens. § 87(2)(b) was in the front porch of the location when PO Reulbach allegedly pointed a gun at him (**Allegation A: Force**, § 87(2)(g)) and said, “I will kill you” (**Allegation B: Abuse of Authority**, § 87(2)(g)). The BWC recordings captured PO Reulbach search § 87(2)(b)s pants pockets, remove his wallet, and then retrieve § 87(2)(b)s identification from the wallet (**Allegation C: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was arrested for § 87(2)(b).

(BR 02 and BR 03).

§ 87(4-b) § 87(2)(g)

The investigation was provided with several BWC recordings of this incident. Full BWC recordings are located in and can be viewed from Investigative Actions #36-47. The relevant video clips are embedded and discussed in greater details below.

### Findings and Recommendations

**Allegation (A) Force: Police Officer Nicholas Reulbach pointed his gun at** § 87(2)(b)

**Allegation (B) Abuse of Authority: Police Officer Nicholas Reulbach threatened** § 87(2)(b) **with the use of force.**

**Allegation (C) Abuse of Authority: Police Officer Nicholas Reulbach searched** § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) did not allege that PO Reulbach searched him, but it was captured on the BWC recordings.

The investigation has established the following facts. On August 22, 2018, at 2:30 p.m., § 87(2)(b) arrived at § 87(2)(b) in Queens to speak to his aunt. § 87(2)(b) did not enter the house, but sat on a beach chair in the front porch. § 87(2)(b) was wearing blue jeans and Timberland shoes, but no shirt.

§ 87(2)(b) (BR 01) explained that he has an ongoing dispute with his aunt over the house. On an unknown date, she obtained an order of protection against § 87(2)(b) which he learned about only after he was arrested as a result of this incident. Several uniformed officers arrived approximately 15 or 20 minutes after § 87(2)(b). § 87(2)(b) believed that his aunt called the police to complain about him. While § 87(2)(b) sat on the beach chair, PO Reulbach walked up the front porch and approached § 87(2)(b) from behind. § 87(2)(b) had his hands rested on his laps and denied having anything in them. § 87(2)(b) asked PO Reulbach, “What are you doing?” PO Reulbach then pulled out his gun, placed it two or three inches away from § 87(2)(b)s head and said, “I will kill you.” § 87(2)(b) got scared and asked PO Reulbach to holster his gun. PO Reulbach complied.

§ 87(2)(b) did not make any statements about being searched by PO Reulbach during their initial encounter.

In the IAB log, § 87(2)(b) only alleged that PO Reulbach pointed a gun at him. § 87(2)(b) did not allege that an officer said, “I will kill you” or that he was searched during the initial approach.

PO Heather Busch’s BWC (BR 04) begins with PO Reulbach and PO Busch walking up the front porch of § 87(2)(b). § 87(2)(b) gets up from the chair and walks towards the officers. It seems that § 87(2)(b) hands something to PO Reulbach. § 87(2)(b) is shirtless and wearing green cargo pants. At the 00:13 minute mark, PO Reulbach approaches § 87(2)(b) closer, meanwhile § 87(2)(b) extends both of his arms perpendicular to his body. PO Reulbach then bends forwards, covering § 87(2)(b)’s body from the camera’s view. It appears that, at this time, PO Reulbach proceeds to search § 87(2)(b)’s pants pockets. At the 00:28 minute mark, § 87(2)(b) turns around facing the wall of the house and raises both of his hands above his head. The camera only captures § 87(2)(b)’s upper body. There is no audio during the first thirty seconds of the recording. At the 00:32 minute mark, PO Reulbach leans toward § 87(2)(b) removes something – presumably a wallet – from his pants pocket, and then places it on the chair. PO Busch then asks § 87(2)(b) to tell her what happened. § 87(2)(b) explains that his friends had a few drinks, so he took his friend’s car so the latter would not have to drive drunk. PO Busch tells § 87(2)(b) that someone called and said that he was a little upset. § 87(2)(b) denies being upset.

PO Danielle Rena’s BWC (BR 05) begins with § 87(2)(b) standing on the front porch facing the wall. PO Reulbach and PO Busch are also standing on the front porch. Between the 00:01 and 00:15 minute marks, PO Reulbach reaches into § 87(2)(b)’s left pants pocket, removes what appears to be a wallet, opens it, removes an identification from the wallet, and then places it on the chair to the left.

None of the videos capture PO Reulbach point his gun at § 87(2)(b) during his initial approach or at any later point during this incident, or say to § 87(2)(b) “I will kill you.”

§ 87(2)(f), § 87(2)(b)

The EVENT (BR 07) materials are consistent with the 911 recording; however, the subtype of the call is listed as “violent EDP.”

§ 87(2)(g)

PO Reulbach stated that he and PO Heather Busch responded to a radio call of “a violent EDP” at the above address. § 87(2)(f)

Upon arrival at the scene, § 87(2)(b) was sitting on the chair at the front porch. He was agitated and talked to himself. PO Reulbach denied pointing his gun at § 87(2)(b) or saying to him, “I will kill you,” during the initial approach or at any later point.

PO Reulbach denied searching § 87(2)(b) during the initial approach. PO Reulbach noted that, upon arrival, the officers did not know that § 87(2)(b) was wanted for a crime, so they did not start searching him. He was shirtless, wore tight sweatpants, and had no shoes on. PO Reulbach did not believe there was anything in § 87(2)(b)’s pants pockets. PO Reulbach did

not observe any bulges on § 87(2)(b)'s clothing. Initially, PO Reulbach stated that he did not believe § 87(2)(b) was armed. PO Reulbach added that the 911 caller did not say there was anything on § 87(2)(b). PO Reulbach stated that officers typically do not search “EDP’s” unless the call notes that there is a weapon or “anything like that,” or unless the individual is violent, in which case, they then place the individual in handcuffs. Officers usually give the individual breathing space to make sure he/she is calm. While still at the scene, § 87(2)(b) was evaluated by EMS, who determined that it was not necessary to remove him to the hospital. § 87(2)(b) was searched after he was placed under arrest and before being placed in the police vehicle, because PO Busch spoke to the female caller and learned that there was an order of protection against § 87(2)(b) and that he had violated it.

However, after PO Reulbach reviewed PO Busch’s BWC recordings, PO Reulbach changed his statement and said that he must have searched § 87(2)(b) out of a safety concern and that no weapon or contraband was recovered from § 87(2)(b) during the search. PO Reulbach did not recall if he retrieved anything from § 87(2)(b)'s pants pockets. PO Reulbach further stated, “Anytime there is an EDP, we search them, like if the job comes over with a weapon. I do not know what the job reads in the body of the SPRINT [EVENT]... But, if they are EDP, sometimes we search them just to make sure that they do not have a weapon on them.” Aside from the general safety concern, PO Reulbach had no specific reason to believe that § 87(2)(b) was armed.

§ 87(2)(g)  
PO Busch stated that when she received the radio call, she recognized the address, because she responded there on several prior occasions regarding EDP job’s, domestic disputes, and violations of the order of protection that involved § 87(2)(b) and his aunt. PO Busch had previously arrested § 87(2)(b) for violating the order of protection against his aunt. PO Busch had no intention to arrest § 87(2)(b) though she suspected that he may have violated the order of protection again, and was primarily concerned about his mental wellbeing. Only after PO Busch spoke to the 911 female caller, she learned that § 87(2)(b) had an opened complaint report. PO Busch then called the 105<sup>th</sup> Precinct Detective Squad and confirmed that the complaint was still valid, at which time she placed § 87(2)(b) under arrest. PO Busch believed that § 87(2)(b) would be arrested again for violating the order of protection. PO Busch did not recall if the job mentioned § 87(2)(b) being armed, but stated that he was known to carry a knife, which she has confiscated from § 87(2)(b) during their prior interactions.

PO Busch stated that, when she initially observed § 87(2)(b) she did not see any bulges on § 87(2)(b)'s clothing, but believed that he a knife, because of their prior interactions and strange behavior, such as pacing back and forth and pulling of his pants. There was no other reason for which PO Busch believed that § 87(2)(b) was armed. PO Busch did not recall, independent of the her BWC recording, if PO Reulbach searched § 87(2)(b)'s pants pockets or removed anything from the pockets, but stated that it was possible he had done so, because § 87(2)(b) was known to carry a knife.

PO Busch denied PO Reulbach pointing his gun at § 87(2)(b) or say to him, “I will kill you,” at any point during this incident.

An officer may frisk an individual if he has reasonable suspicion that the person is armed and dangerous. An officer must have probable cause to search an individual. People v. DeBour 40 N.Y. 2d 210 (1976) (BR 10) According to the NYPD Patrol Guide Procedure 208-02 and 208-03,

prior to removing a prisoner to the stationhouse, an officer should immediately frisk and search the prisoner for weapons, evidence, and contraband (BR 11 and BR 12).

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO Nicholas Reulbach has been a member of service for 13 years and has been a subject in four CCRB complaints and five allegations, none of which were closed as substantiated. § 87(2)(g)

#### **Mediation, Civil and Criminal Histories**

- This complaint is not suitable for mediation.
- A FOIL request was sent to the NYC Comptroller on February 12, 2019, for any Notice of Claim filed in regard to this incident. The results of the request will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

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Squad No.:       4  

Investigator:     \_\_\_\_\_     \_\_\_\_\_     \_\_\_\_\_  
                                    Signature                      Print Title & Name                      Date

Squad Leader:     \_\_\_\_\_     \_\_\_\_\_     \_\_\_\_\_  
                                    Signature                      Print Title & Name                      Date

Reviewer:     \_\_\_\_\_     \_\_\_\_\_     \_\_\_\_\_  
                                    Signature                      Print Title & Name                      Date